



Senate

General Assembly

File No. 504

February Session, 2000

Substitute Senate Bill No. 507

Senate, April 11, 2000

The Committee on Appropriations reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

An Act Requiring The Commissioner Of Social Services To Hold Expedited Fair Hearings.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-60 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) An aggrieved person authorized by law to request a fair hearing
4 on a decision of the Commissioner of Social Services or the conservator
5 of any such person on [his] behalf of such person may make
6 application for such hearing in writing over [his] the signature of such
7 person to the commissioner and shall state in such application in
8 simple language the reasons why [he] such person claims to be
9 aggrieved. Such application shall be mailed to the commissioner
10 within sixty days after the rendition of such decision. The
11 commissioner shall thereupon hold a fair hearing within thirty days
12 from receipt thereof and shall, at least ten days prior to the date of
13 such hearing, mail a notice, giving the time and place thereof, to such

14 aggrieved person, [or] except that:

15 [if] (1) If the application concerns a denial of or failure to provide
16 emergency housing, the commissioner shall hold a fair hearing within
17 four business days from receipt thereof, and shall make all reasonable
18 efforts to provide notice of the time and place of the fair hearing to
19 such aggrieved person at least one business day prior to said hearing;
20 or

21 (2) If the application concerns a denial of or failure to provide
22 medical diagnosis or treatment which may jeopardize the life or health
23 of the aggrieved person or the ability of such person to regain
24 maximum function and the aggrieved person has requested expedited
25 review, or if the physician or primary care provider of such person has
26 requested expedited review of a denial of or failure to provide medical
27 diagnosis or treatment, the commissioner shall hold a fair hearing
28 within fourteen business days from receipt thereof, and shall make all
29 reasonable efforts to provide notice of the time and place of the fair
30 hearing to such aggrieved person and the treating physician or
31 primary care provider of such person at least three business days prior
32 to such hearing.

33 (b) A reasonable period of continuance may be granted for good
34 cause. The aggrieved person shall appear personally at the hearing,
35 unless [his] the physical or mental condition of such person precludes
36 appearing in person, and may be represented by an attorney or other
37 authorized representative. A stenographic or mechanical record shall
38 be made of each hearing, but need not be transcribed except (1) in the
39 event of an appeal from the decision of the hearing officer or (2) if a
40 copy is requested by the aggrieved person, in either of which cases it
41 shall be furnished by the Commissioner of Social Services without
42 charge. The Commissioner of Social Services and any person
43 authorized by [him] said commissioner to conduct any hearing under
44 the provisions of this section shall have power to administer oaths and

45 take testimony under oath relative to the matter of the hearing and
46 may subpoena witnesses and require the production of records, papers
47 and documents pertinent to such hearing. No witness under subpoena
48 authorized to be issued by the provisions of this section shall be
49 excused from testifying or from producing records, papers or
50 documents on the ground that such testimony or the production of
51 such records or other documentary evidence would tend to
52 incriminate [him] such witness, but such evidence or the records or
53 papers so produced shall not be used in any criminal proceeding
54 against [him] such witness. If any person disobeys such process or,
55 having appeared in obedience thereto, refuses to answer any pertinent
56 question [put to him] by the commissioner or [his] the authorized
57 agent of the commissioner or to produce any records and papers
58 pursuant thereto, the commissioner or [his] such agent may apply to
59 the superior court for the judicial district of Hartford or for the judicial
60 district wherein the person resides, or to any judge of said court if the
61 same is not in session, setting forth such disobedience to process or
62 refusal to answer, and said court or such judge shall cite such person to
63 appear before said court or such judge to answer such question or to
64 produce such records and papers and, upon [his] refusal to do so, shall
65 commit such person to a community correctional center until [he] such
66 person testifies, but not for a longer period than sixty days.
67 Notwithstanding the serving of the term of such commitment by any
68 person, the commissioner or [his] such agent may proceed with such
69 inquiry and examination as if the witness had not previously been
70 called upon to testify. Officers who serve subpoenas issued by the
71 commissioner or under [his] the authority of the commissioner and
72 witnesses attending hearings conducted by [him] the commissioner
73 hereunder shall receive like fees and compensation as officers and
74 witnesses in the courts of this state to be paid on vouchers of the
75 commissioner on order of the Comptroller.

76 Sec. 2. Subsection (a) of section 17b-61 of the general statutes is
77 repealed and the following is substituted in lieu thereof:

78 (a) Not later than sixty days after such hearing, or three business
79 days if the hearing concerns a denial of or failure to provide
80 emergency housing, or fourteen business days if the hearing concerns
81 a denial of or failure to provide medical diagnosis or treatment, the
82 commissioner or [his] a designated hearing officer shall render a final
83 decision based upon all the evidence introduced before [him] the
84 commissioner or such officer and applying all pertinent provisions of
85 law, regulations and departmental policy, and such final decision shall
86 supersede the decision made without a hearing, provided final
87 definitive administrative action shall be taken by the commissioner or
88 [his] a designee within ninety days after the request of such hearing
89 pursuant to section 17b-60. Notice of such final decision shall be given
90 to the aggrieved person by mailing [him] a copy thereof within one
91 business day of its rendition. Such decision after hearing shall be final
92 except as provided in subsections (b) and (c) of this section.

HS Committee Vote: Yea 11 Nay 7 JFS-LCO C/R APP

APP Committee Vote: Yea 26 Nay 19 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Potential Cost

Affected Agencies: Department of Social Services

Municipal Impact: None

Explanation**State Impact:**

This bill requires the commissioner of the Department of Social Services (DSS) to establish a procedure for expedited fair hearings when there has been a denial or failure to provide medical diagnosis or treatment that may jeopardize the life or health of the people requesting the hearing. The fair hearing must be held within fourteen business days of the request for such a hearing. This change may result in increased costs to DSS if the department must hire additional administrative hearing officers to meet the fourteen-day deadline. Even if the department does not need to hire additional officers, it is likely that delays in fair hearings for those cases that are not eligible for expedited hearings may result, as the department would have to dedicate administrative resources to meet the fourteen-day deadline.

OLR Bill Analysis

sSB 507

***AN ACT REQUIRING THE COMMISSIONER OF SOCIAL SERVICES
TO HOLD EXPEDITED FAIR HEARINGS.*****SUMMARY:**

This bill requires the Department of Social Services (DSS) to hold expedited fair hearings on request when a person or his physician or primary care provider claims that the agency (or a managed care organization (MCO) providing services under contract with DSS) has denied him diagnosis or treatment and that denial may jeopardize his life, health, or ability to regain maximum function. It must hold an expedited hearing within 14 business days of the receiving a written request for one, give the grievant and treating physician or primary care provider at least three business days advance notice, if possible, and render a decision within 14 days of the hearing.

Current law requires DSS to hold hearings in all except emergency housing cases within 30 days, give the person who requested it 10 days advance notice of the hearing date, if possible, and issue decisions within 60 days of the hearing or within 90 days of the hearing request, whichever is sooner. It must hear emergency housing matters within four business days, give the grievant one business day's prior notice, if possible, and render decisions within three business days of the hearing.

EFFECTIVE DATE: October 1, 2000

BACKGROUND***Fair Hearings***

By law, applicants and recipients of DSS services may contest benefit reductions, suspensions, or denials within 60 days of the agency's action. DSS or the contractor taking such action must notify them of their appeal rights and the procedures they must follow. When a

person files a written application, DSS must hold the hearing and render a final written decision within statutory time limits. People dissatisfied with the agency's final decision may appeal in court.

Managed Care Organization Contracts

DSS requires MCOs to have a "timely and organized" grievance process. It must be available for enrollees when (1) the MCO fails to respond to a request for goods and services within 20 days (2) when it denies coverage of goods or services that their physician or primary care provider prescribed, or (3) when it reduces, suspends, or terminates ongoing goods or services.

DSS and the MCOs treat grievances as requests for fair hearings, and DSS follows statutory time limits for scheduling and rendering decisions. It requires MCOs to conclude their reviews and make decisions within 30 days of the date DSS received the grievance.

The contracts also require MCOs to conduct expedited reviews of decisions when the standard timeframes could jeopardize a member's life, health, or ability to regain maximum function. They must be performed in all cases in which the member's treating physician, primary care provider, or DSS requests it. MCOs must complete reviews and render decisions within three business days of the request unless the enrollee asks to meet with the decision maker or submit additional information, in which case the decision must be made within five business days.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Change of Reference

Yea 11 Nay 7

Appropriations Committee

Joint Favorable Substitute

Yea 26 Nay 19